

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NOS. C-081015
		C-081016
Plaintiff-Appellee,	:	TRIAL NOS. o8CRB-31044A
		o8CRB-31044C
vs.	:	
NORBERT KIDD,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

We consider these consolidated appeals on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Norbert Kidd appeals his convictions for disorderly conduct by causing annoyance or alarm while intoxicated, in violation of R.C. 2917.11(B)(1), and for resisting arrest, in violation of R.C. 2921.33. Kidd had entered guilty pleas to both offenses.

In a single assignment of error, Kidd contends that the trial court erred in accepting his pleas without first advising him of the effect of the pleas as required by Crim.R. 11. At the plea hearing, the trial court addressed Kidd and informed him that “when you plead guilty we’re not going to have a trial, I’m going to find you guilty. Do you understand that?” The court then informed Kidd of the maximum penalties for each offense: 90 days’ incarceration on the resisting-arrest offense, and 30 days’ incarceration on the disorderly-conduct offense. After confirming that Kidd still wished to plead guilty,

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

the trial court accepted the pleas, entered findings of guilty, and imposed the maximum sentences of incarceration and a fine. The trial court checked a box on each sentencing entry indicating that the terms of incarceration were to be served concurrently.

To ensure that guilty pleas are knowingly, intelligently, and voluntarily made, Crim.R. 11 identifies the procedure a trial court must follow when accepting a defendant's guilty plea. A court's "obligations in accepting a plea depend upon the level of offense to which the defendant is pleading."² Both of Kidd's offenses were punishable as petty offenses.³ Where, as here, a defendant pleads guilty to petty offenses, Crim.R. 11(E) controls and provides that "the court may refuse to accept a plea of guilty or no contest, and shall not accept such pleas without first informing the defendant of the effect of the plea of guilty, no contest, and not guilty."

"In accepting a plea to a misdemeanor involving a petty offense, a trial court is required to inform the defendant only of the effect of the specific plea being entered."⁴ Here, the trial court was required to inform Kidd only of the effect of a guilty plea, the pleas he entered.

Advising the defendant of the effect of his guilty plea means the trial court must "inform the defendant of the appropriate language under Crim.R. 11(B)."⁵ Crim.R. 11(B)(1) defines the effect of a guilty plea as "a complete admission of the defendant's guilt." This information must be given to the defendant either orally or in writing, prior to accepting his plea.⁶

In this case, the trial court failed to inform Kidd that his guilty pleas were complete admissions of his guilt. But we nonetheless overrule the assignment of error because Kidd

² *State v. Jones*, 116 Ohio St.3d 211, 2007-Ohio-6093, 877 N.E.2d 677, ¶6.

³ See Crim.R. 2(D).

⁴ *State v. Jones*, paragraph one of the syllabus.

⁵ Id. at ¶25.

⁶ See id. at ¶51.

cannot demonstrate prejudice flowing from the trial court's failure to inform him that his guilty pleas were complete admissions of guilt. Here, prejudice means that the plea would not otherwise have been made but for the trial court error.⁷ Kidd has not alleged any prejudice, and like the defendant in *State v. Jones*, Kidd "did not assert his innocence at the colloquy."⁸ In fact, just moments after entering his pleas, he accepted responsibility for his actions and told the court that a similar event would never happen again.

Therefore, the judgment of the trial court is affirmed.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., SUNDERMANN and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 18, 2009

per order of the Court _____.
Presiding Judge

⁷ See *id.* at ¶52.

⁸ *Id.* at ¶54.